



Chinese Media Digest

中国传媒摘

The Chinese Media Digest, launched in November 2014, provides critical analysis of news articles, blogs, and official speeches published in Chinese-language news media.

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FOURTH PLENUM AND THE RULE OF LAW

President Xi's Plenum Speech Emphasizes the Law

The Fourth Plenary Session of the 18th Central Committee of the Chinese Communist Party was held in Beijing from October 20 to 23, 2014, convening more than 300 Central Committee members, along with delegations from scholarly and grassroots organizations. According to *Xinhua*, China's official news agency, the principal theme this year was "comprehensively advancing ruling the country according to the law."¹ Last year, the Third Plenum's focus was on economic reform. In a speech explaining the Party's decision to focus on rule of law, Party Secretary and President Xi Jinping identified major tasks: to perfect a Socialist rule of law system with Chinese characteristics, with the Constitution at its core; to promote "administration by law"; guarantee judicial fairness and credibility; enhance public awareness of rule of law, in order to build a "rule of law society;" and promote government transparency.

Xi added to that ambitious list setting up cross-jurisdictional circuit courts; allowing prosecutors to file public interest litigation; enhancing the protection of human rights in judicial procedures; and implementing rule of law during performance evaluations of officials at all levels. As if trying to lend weight to these pronouncements, the Plenum announced that six former officials (Li Dongsheng, Jiang Jiemin, Yang Jinshan, Wang Yongchun, Li Chuncheng and Wan Qingliang) were expelled from the Party for disciplinary violations, to be replaced by new members (Ma Jiantang, Wang Zuo'an and Mao Wanchun).

However, Xi also vowed "to strengthen and improve Party leadership over comprehensively advancing rule of law," a notion that conflicts directly with the division of power in Western democracies. President Xi said the Party would improve intra-Party regulatory mechanisms; promote rule of law within the People's Liberation Army; and promote national reunification in line with the law and the "one country, two systems" policy.

- 中国共产党第十八届中央委员会第四次全体会议公报 (*Communiqué of the Fourth Plenary Session of the 18th Central Committee of the Chinese Communist Party*)
Xinhua, October 23, 2014
http://news.xinhuanet.com/politics/2014-10/23/c_1112953884.htm
- 习近平：关于《中共中央关于全面推进依法治国若干重大问题的决定》的说明 (Xi Jinping: Explanation Concerning the "CCP Central Committee Decision Concerning Some Major Questions in Comprehensively Moving Governing the Country According to the Law Forward")
Xinhua, October 28, 2014
http://news.xinhuanet.com/politics/2014-10/28/c_1113015372.htm

¹ For more information on this issue, see the November 2014 edition of the USCC Monthly Trade Bulletin.

Chinese Scholars Debate Rule of Law and the Economy

In a series of articles published online, the Hong Kong-based news outlet *Phoenix (iFeng)*² has been examining the implications of rule of law for China's economy in the context of the Fourth Plenum. The October 18 installment is by Zhou Hanhua, an administrative law professor at the Chinese Academy of Social Sciences, a government think tank. Zhou argues that China must first make progress in implementing rule of law before it can achieve market economy status. According to Zhou, a market economy governed by law must fulfill three basic requirements: the law must command the highest authority; uphold fundamental principles like fairness and justice, with protection of rights at its core; and develop in harmony with the economy and society.

Because there is no widespread recognition of the authority given to the law in China, Zhou argues that “unwritten rules” abound and are perceived as more authoritative than the actual letter of the law. To overcome this obstacle, the people, Party, and government must develop a cultural habit of strict adherence to the law and constitution as the highest authority instead of just one consideration among many. Moreover, Chinese society must share the values of a “market economy governed by law,” including freedom, equality, fairness, and trust. Zhou finds that, as a late-developing country, China has had much less time to cultivate these values than more developed market economies. Turning this situation around is an “historical process that will require decades of sustained effort throughout all society.”

In another installment published October 20, economics professor Xu Chenggang argues that financial reform in China hinges on establishing “constitutional rule of law.” To date, China's legal reforms have been limited to the particulars of private law (e.g., contract, bankruptcy, and banking law). Though necessary, these are far from sufficient. By limiting government power, constitutional rule guarantees that private law is administered independently. Constitutional rule is thus vital to promoting the sustained and stable development of China's economy. Xu argues that China's traditional legal codes, dating back to the imperial period, did not include any modern conception of private property law, a legacy that has resulted in weak private property protections today.

Xu attributes the problems in China's financial sector to rule of law deficiencies. The most efficient stock exchanges are located in Western countries, where property right protections are effective and contract execution is guaranteed. The Shanghai stock exchange, on the other hand, is the worst performer among the world's top-ten exchanges, in terms of the growth of its benchmark index. He finds that lack of investor confidence is directly tied to concerns about private property protections.

² Phoenix (iFeng) is a Hong Kong-based Mandarin and Cantonese-language television broadcaster that serves the Chinese mainland and Hong Kong. It also provides internet and print media content.

- 周汉华：我们离法治经济有多远 (Zhou Hanhua: How Far is China from a Rule-of-Law Economy?)
Phoenix iFeng, October 18, 2014
<http://finance.ifeng.com/news/special/ruleoflaw/>
- 许成钢：中国改革必须直面私法缺失和薄弱问题 (Xu Chenggang: China's Reform Must Face the Shortcomings of Private Law Head-on)
Phoenix iFeng, October 20, 2014
<http://finance.ifeng.com/news/special/ruleoflaw3/>

Chinese Journalist Imprisoned for Corporate Slander

On October 18, the respected finance magazine *Caixin*³ published a blog commentary by Ding Jinkun, a Shanghai-based lawyer, on the recent sentencing of a Chinese journalist.⁴ The journalist, Chen Yongzhou, was charged on two related counts: taking bribes and defaming a corporate entity. Writing for *Xinkuai Bao*, an independent daily paper based in Guangdong, Chen criticized corporate practices at Zoomlion, a state-owned enterprise in Hunan province that ranks among the world's top producers of construction machinery. Although Chen wrote the article from outside Hunan, a Hunan court claimed jurisdiction and ordered his arrest last year. This was unusual – journalists in China frequently use their out-of-province status as a way to write critically about local issues, because they feel less exposed to retribution by local authorities and interest groups. Based on the sentence handed down October 17, Chen will serve a year and ten months in prison, taking into account his period of incarceration since last year.

In his blog, Ding expresses concern that the case could set a negative precedent for critical journalism about companies, because the legal language regarding “fabrication of facts to defame a corporate entity” is vague and can be interpreted in a company's favor. Ding also notes that, in an earlier confession delivered on Chinese state-run television in October 2013, Chen said he had taken RMB 500,000 (\$81,400) in bribes to defame Zoomlion, whereas the recent court sentence stated that the bribe amounted to only RMB 30,000 (\$4,900). This inconsistency raises questions about the credibility of the bribery charge. Moreover, there has been no indication whether Chen or his employer *Xinkuai Bao* pocketed the bribe (in which case the law would apply differently), nor about who offered the bribe. Ding also suspects that China's official

³ Caixin Media Company Ltd. is a Beijing-based media group providing financial and business news and information through periodicals, online content, mobile apps, conferences, books and TV/video programs. Its current editor is Hu Shuli, formerly the editor of *Caijing*, a financial magazine.

⁴ Freedom of the press is a serious concern in China, particularly under China's new political leadership. According to the Committee to Protect Journalists: “On June 30, [2014], Chinese authorities ... issued an order barring journalists from sharing any information they obtained in the course of their work relating to state secrets with foreign or domestic news agencies. The directive followed an announcement in April 2013 that forbids Chinese media outlets from publishing online any news without government permission. Authorities in July 2014 also said journalists were required to sign a secrecy agreement with their employers in order to obtain press credentials, reports said.” Committee to Protect Journalists, “Chinese Journalist Dismissed after Writing on Hong Kong News Website,” July 22, 2014. <http://cpj.org/2014/07/chinese-journalist-dismissed-after-writing-on-hong.php>.

news agency, *Xinhua*, tried to cover up discrepancies between the legal facts brought forward by the public security officials who originally arrested Chen, and those presented by the Hunan court in the recent sentencing.

- 丁金坤: 谜一样的陈永洲案 (Ding Jinkun: The Puzzling Case of Chen Yongzhou)
Caixin blog, October 18, 2014
<http://dingjinkun.blog.caixin.com/archives/77915>

POLITICS AND FOREIGN AFFAIRS

***People's Daily* Analyzes Party Legitimacy and China-Russia Relations**

On October 9, the military section of the *People's Daily*⁵ published an editorial on China's strategic risks. It argues that the greatest danger China faces today is neither the threat of U.S. containment nor Japan's provocations, but rather questions about the legitimacy of the Chinese Communist Party (CCP). The article asks: "The fate of China is in the hands of the Chinese nation itself – what are the CCP's ideals?"

The article states:

The CCP adheres to the consistent pursuit of social justice, but many attempt to negate the historical achievements of the CCP. In the face of questions of principle, China should never retreat and must stay firm in its political stance. The misperception that economic development alone will solve all issues erodes the significance of the pursuit of social justice. China offers the world a wealth of material goods, but can it also provide the same rich spiritual goods? What sort of "ideological weapon" can China effectively use?

The article goes on to cite opportunities for China's future development, including economic growth that "constitutes a new starting point for national strength"; improvements in military capabilities; and increased diplomatic leverage that China accrues from its central position in the global economy.

On October 14, the military section of the *People's Daily* also provided an interesting analysis of China-Russia relations, as seen through the eyes of Western media. The article alleges that the "close relationship between China and Russia has caused alarm in foreign countries." It cites the following Western news media reports as evidence:

- *Agence France-Presse* stated Moscow and Beijing strengthened cooperation in the past few years to counter U.S. hegemony.

⁵ *People's Daily* (Renmin Ribao) is the official daily newspaper of the Central Committee of the CCP and the flagship media organ of the CCP's media empire. The paper's website states it is the most authoritative "mouthpiece of the party."

- The *New York Times* cited former NATO Supreme Allied Commander General Wesley Clark, who argued that “it’s time to get real about China” and warned that without the current international framework of Bretton Woods institutions to ensure global peace and security, China will become diplomatically isolated.
- *Japanese Economic News* reported that Li Keqiang’s visit to Russia will likely delay progress in U.S.-Japan-Russia trilateral relations.
- *Bloomberg* reported China-Russia cooperation “may make Asian neighbors uneasy.” The Philippines and Vietnam are especially worried about China’s military power, particularly in light of news that Russia will provide the first S-400 air defense missile systems and Su-35 fighters to China early next year.

The *People’s Daily* article goes on to state that “some scholars even predict a third world war would break out between China and Russia on one side and the United States on the other.” It quotes James H. Fetzer, a former professor of philosophy at the University of Minnesota- Duluth, who argues that China and Russia would form an alliance to defeat the United States in such a war. Fetzer’s extreme comments are framed by *People’s Daily* as representative of “U.S. experts.” The article also quotes Yu Cheng, an Eastern Europe expert at the state-run Chinese Academy of Social Sciences. Yu states that, notwithstanding the Western backlash, Moscow and Beijing benefit from closer bilateral ties. Russia is looking to China to improve its economic conditions in the face of Western sanctions, while Beijing is diversifying its energy imports by signing oil and gas deals with Moscow.

- 美专家预测中俄将与美国爆发第三次世界大战 美国将败 (U.S. Experts Predict that China and Russia Would Defeat the United States in the Event of Third World War)
People’s Daily, October 14, 2014
<http://military.people.com.cn/n/2014/1014/c1011-25828845.html>
- 金一南：中国今天面临最大的危险是什么 (Jin Yanan: What Is the Greatest Danger Facing China Today?)
People’s Daily, October 9, 2014
<http://military.people.com.cn/n/2014/1009/c1011-25799409.html>

***People's Daily* Comments on International Infrastructure Financing**

According to Fu Yunwei, a journalist at the party-run paper *People's Daily*, the APEC Finance Ministers Meeting (held October 22 in Beijing) outlined a new plan for multilateral financing that can reduce the infrastructure deficits of developing economies. Fu cites estimates from the Asian Development Bank (ADB) that the fixed investment needed in Asia amounted to \$8 trillion in 2010, with an additional \$290 billion needed to improve domestic and regional infrastructure. ASEAN passed a \$295.5 billion development plan in 2010, but that is still short of the investment needed in the region. Fu notes a “generational shift” in developed country infrastructure policies as well, with the United States announcing a \$50 billion infrastructure promotion plan in 2010.

Fu claims that the Asia region benefits from promoting infrastructure. Infrastructure investment has already facilitated vertical and horizontal supply chain integration throughout the region, forging common interests among private and public actors in establishing an infrastructure investment platform.

As Asia's largest economy, Fu finds China has abundant financial capital to devote to infrastructure. It is fully capable of promoting regional economic integration and meeting the developmental needs of other countries in the region. Fu claims that, while China will be the main funding source for the new Asian Infrastructure Development Bank, it does not intend to dominate its partners. In the same vein, China is willing to participate in improving global governance, but has no intention of challenging the existing financial order. Fu argues that China should allow the domestic private sector to take a “larger piece of the cake” in infrastructure development. APEC members should prioritize projects undertaken through public-private partnerships with a respect for market forces, operational efficiency, and social benefits.

- APEC 财长会议构建新金融生态 (APEC Finance Ministers Meeting Will Construct a New Finance Way of Life)
Caijing, October 27, 2014
http://caijing.chinadaily.com.cn/2014-10/27/content_18809837.htm

Professor Sees EMBA Program as Tarnished by State-Run Economy

On October 21, the finance magazine *Caijing*⁶ published comments by Zhang Ming, a professor at Renmin University in Beijing, about the close ties between powerful

⁶ *Caijing* is an independent magazine based in Beijing that covers societal, political, and economic issues, with a focus on civil rights, public affairs, and business.

Chinese officials and China's executive MBA (EMBA) programs. Speaking at a *Caijing*-organized event, Zhang lamented that the EMBA at Renmin University and other prestigious schools has degenerated from an educational program into a corporate cash cow. Students are recruited based on their power and influence in the state-led economy rather than their academic merit. Most of the so-called "executives" are well-connected Chinese officials and the executives of state-owned enterprises. Zhang argues that EMBA programs are falling victim to the culture of state dominance over China's economy, and in turn, are reinforcing this culture by boosting the credentials of those connected to the state rather than promising individuals from the private sector. Zhang contrasts this with top U.S. schools, where special connections do not provide shortcuts to an EMBA degree.

- 张鸣：EMBA 背后的问题是中国的官太大了 (Zhang Ming: The Problem with the Executive MBA Program Is Too Much State Influence)
Caijing, October 21, 2014
<http://comments.caijing.com.cn/20141021/3727701.shtml>